

REMARKS

Claims 1 through 22 are pending in this application and have been previously amended. The Examiner rejects claims 1-10 under 35 U.S.C. §102(e) and 1-10, 12-22 under 35 U.S.C. §103(a). No new matter has been added.

Claim Rejections under 35 U.S.C. § 102(e)

The Examiner rejects claims 1-10 under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 6,440,159 to Edwards (hereinafter referred to as "Edwards").

The Examiner characterizes Edwards as disclosing "a sling holder (10) for holding an object for an extended period of time against the skin, said sling holder comprising: a strap (comprising 20, 22, 24 and 32) having a first end (20) and an opposing second end (22), a fastener (64) for coupling said first end to said second end, and at least one pocket attachable (see element 16 in figures 1, 3 and 4) to said strap."

Claim 1 of the present invention specifies that there is a single fastener associated with the strap. In contrast, Edwards quite clearly has two fasteners in each embodiment, shown best in FIG. 1 where the crosshatched areas 64 and 120 are two distinct and separate fasteners. This distinguishes the Edwards reference from the claimed invention in a substantial manner. The Edwards device is intended as a body wrap so the two large fastener areas 64 and 120 are essential to the ability to securely wrap the device around major body sections and includes short connecting means 26 and long connecting means 18 to adapt to different circumferences of large body sections and joints. By contrast claim 1 discloses a single fastener for coupling the first and second ends, the fastener being positioned at the first end and the opposing second end of the strap.

The Examiner seems to confuse the body wrap 11A with the strap 11B of the Edwards reference. The strap 11B disclosed in the Edwards reference is entirely separate from the body wrap 11A of Edwards which has the pocket attached to it. The strap 11B of Edwards has no pocket at all. In contrast, claim 1 of the present invention discloses a sling holder comprising a strap and at least one pocket attachable to the strap.

In addition, unlike claim 1 Edwards does not disclose a sling holder comprising a strap, a single fastener, the fastener being positioned completely within the perimeter of the strap and at least one pocket attachable to the strap. Instead, Figure 1 of the Edwards reference shows ears 20, 22, 28, and 30, with fasteners attached thereto, extending outwardly from the body wrap.

When the independent claim is found patentable, the claims dependent there from are patentable as well. Thus the Examiner's alleged rejection of dependent claims 2-10 in view of further teachings of Edwards is overcome when the independent claim is determined to be patentable. Such a determination is sincerely urged.

Claim Rejections under 35 USC § 103(a)

Claims 1-10 and 12-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,823,984 to Silverberg (hereinafter "Silverberg") in view of U.S. Patent No. 5,507,794 to Allen (hereinafter "Allen").

The Examiner asserts that Silverberg discloses a sling holder for holding an object for an extended period of time against the skin, the sling holder comprising a strap having a first end and an opposing second end, a fastener for coupling the first end to the second end and at least one pocket attachable to the strap. The Examiner states that Silverberg fails to disclose a single fastener positioned completely within the perimeter of the strap. The Examiner claims that it would have been obvious to one of ordinary skill in the art to modify the invention of Silverberg in view of the Allen reference which purportedly teaches use of a single fastener positioned completely within the perimeter of the strap.

It is the fastener 14 of Silverberg that differs markedly from the currently claimed instant invention. The Silverberg reference teaches an expandable wrap including one or more panels with the entire interior and/or exterior surfaces of fabric loop type material. The panel includes three fasteners stitched to or removably attached to an edge of the panel. Each of the fasteners includes a surface having hook type fasteners fastened to the loop type fabric on the inner or outer surface of an adjoining panel edge. The fasteners extend over the edge of the panel for securing two adjoining panels. The wrap includes a pocket for holding thermo packs or weights. The pocket includes a lower flap and an upper flap, with the upper flap extending over the lower flap thereby forming a pocket. An outer surface of the pocket is preferably constructed of vinyl and includes hook type fasteners for securing the pocket to the loop type interior surface of the wrap.

Unlike the invention cited in claims 1 and 16, the Silverberg reference does not teach or suggest fasteners located fully within the perimeter of the wrap. By contrast, Silverberg teaches fasteners 14 which extend "over the edge" of the wrap or panel 12 (see Silverberg FIG. 1 reproduced for convenience below). Each representation of the fasteners in other embodiments of Silverberg are similarly extending beyond the body of the wrap.

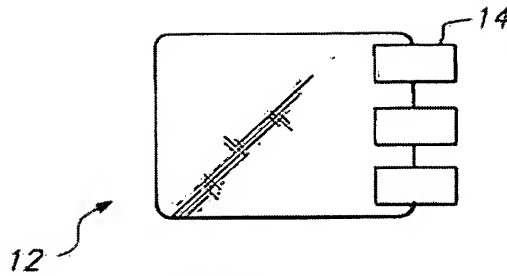


FIG. 1

Thus, the invention as claimed distinguishes from the Silverberg disclosure in that the fasteners are within the perimeter of the strap and overlap the adjacent complimentary fastener portion to securely bind the ends together. In Claim 1 it is a single strap and in Claim 16 and 17 it can be two or more strap portions fastened together.

Unlike claims 1 and 16 of the present invention, the Allen reference does not teach or suggest a sling holder but instead is related to a pliable garment that conforms to the contours of different sized female breasts to provide heat or cold to reduce swelling and irritation in adjacent breast regions. The garment is an elongated support member having two ends and a securing member for removably securing the support member ends. A pouch is disposed on the support member, and a temperature regulator is positioned therein for imparting a predetermined temperature to an area adjacent the pouch when the garment is worn about the torso. The garment may include a plurality of removable pouches and positioning means for positioning the pouches on the support member. Unlike claim 1 of the present invention the Allen reference does not disclose the fasteners being positioned at the first end and the opposing second end. Instead the Allen reference discloses a layer 13 of hook-like material disposed proximate one end (Allen at column 3 lines 15-17, and FIG. 1).

The Applicant asserts that the Allen reference “teaches away” from the Silverberg reference, in that the references are contradictory and thus do not disclose, teach, or fairly suggest the present invention as claimed. The Allen reference emphasizes the stretchable, elastic qualities of its device while Silverberg explicitly discloses a wrap that snugly fits around a body area without the need for elastic bands. Thus, one of skill in the art would not likely look at multiple panel wraps that explicitly avoid the use of elastic bands (Silverberg) and stretchable elastic devices (Allen) to arrive at the invention as recited in the claims. Accordingly, the Applicant concludes that the Examiner’s reliance on Silverberg in view of Allen to reject the claim 1-10 and 12-22 is erroneous.

Even if the Silverberg and Allen references were combined, as the Examiner suggests, the invention recited in claims 1 and 16 could not be arrived at. As detailed above, none of the references disclose, teach or suggest the fastener being positioned at the first end and said opposing second end of the strap and positioned completely within the perimeter of the strap, as recited in claims 1 and 16. Accordingly, the references applied by the Examiner either alone or in combination fail to render the invention recited in claims 1 and 16 obvious. Reconsideration of the section 103 rejection is respectfully requested.

Claims 2-10, 12-15, which depend from Claim 1 and Claims 17-22, which depend from Claim 16, were rejected by the Examiner as allegedly unpatentable also based on Silverberg. When the underlying independent claim is found patentable, the claims dependent therefrom are patentable as well. As set forth in detail above in either alone or combined, the Silverberg and Allen references fail to teach or suggest all aspects of the claimed invention. Reconsideration of the rejections of dependent claims and allowance of these claims is sincerely urged. Accordingly the Examiner is urged to reconsider all of these rejections and withdraw them.

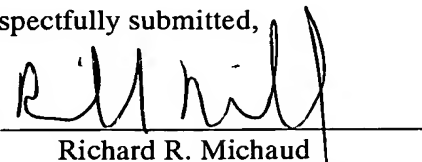
In view of the foregoing, the Examiner is respectfully requested to reconsider all pending rejections and withdraw all rejections against all currently pending claims. Such favorable action is hereby respectfully requested.

To expedite prosecution of this application to allowance, the Examiner is invited to call the undersigned attorney to discuss any issues relating to this application.

If it is determined that additional fees are required to assure continued pendency of the application, please charge our Deposit Account No. 503342.

Respectfully submitted,

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